

## **CHAPTER 26.1-15.1 FRATERNAL BENEFIT SOCIETIES**

### **26.1-15.1-01. Definitions.**

Whenever used in this chapter:

1. "Benefit contract" means the agreement for provision of benefits authorized by section 26.1-15.1-16, as that agreement is described in section 26.1-15.1-19.
2. "Benefit member" means an adult member designated by the laws or rules of the society as a benefit member under a benefit contract.
3. "Certificate" means the document issued as written evidence of the benefit contract.
4. "Laws" means the society's articles of incorporation, constitution, and bylaws, however designated, of the society.
5. "Lodge" means subordinate member units of the society, whether known as camps, courts, councils, branches, or by any other designation.
6. "Premiums" means premiums, rates, dues, or other required contributions by whatever name known, which are payable under the certificate.
7. "Rules" means all rules, regulations, or resolutions adopted by the supreme governing body or board of directors which are intended to have general application to the members of the society.
8. "Society" means fraternal benefit society, unless otherwise indicated.

### **26.1-15.1-02. Fraternal benefit societies.**

Any incorporated society, order, or supreme lodge without capital stock, including one exempted under subdivision b of subsection 1 of section 26.1-15.1-37 whether incorporated or not, conducted solely for the benefit of its members and their beneficiaries and not for profit, operated on a lodge system with ritualistic form of work, having a representative form of government, and which provides benefits in accordance with this chapter, is a fraternal benefit society.

### **26.1-15.1-03. Lodge system defined.**

1. A society operates on the lodge system if it has a supreme governing body and subordinate lodges into which members are elected, initiated, or admitted under its laws, rules, and ritual. Subordinate lodges shall hold regular or stated meetings at least once each month in furtherance of the purposes of the society.
2. A society may organize and operate lodges for children under the minimum age for adult membership. Membership and initiation in local lodges may not be required of such children, nor may they have a voice or vote in the management of the society.

### **26.1-15.1-04. Representative form of government defined.**

A society has a representative form of government when:

1. It has a supreme governing body constituted in one of the following ways:
  - a. The supreme governing body is an assembly composed of delegates elected directly by the members or at intermediate assemblies or conventions of members of their representatives, together with other delegates as may be prescribed in the society's laws. A society may provide for election of delegates by mail. The elected delegates must constitute a majority in number and have not less than two-thirds of the votes and not less than the number of votes required to amend the laws of the society. The assembly must be elected and meet at least once every four years and shall elect a board of directors to conduct the business of the society between meetings of the assembly. Vacancies on the board of directors between elections may be filled in the manner prescribed by the constitution and laws of the society.
  - b. The supreme governing body is a board composed of persons elected by the members, either directly or by their representatives in intermediate assemblies, and any other persons prescribed in the constitution or laws of the society. A

society may provide for election of the board by mail. Each term of a board member may not exceed four years. Vacancies on the board between elections may be filled in the manner prescribed by the constitution or laws of the society. A person filling the unexpired term of an elected board member is considered to be an elected member. Those persons elected to the board must constitute a majority in number and not less than the number of votes required to amend the laws of the society. The board shall meet at least quarterly to conduct the business of the society.

2. The officers of the society may be elected by either the supreme governing body or the board of directors.
3. Only benefit members are eligible for election to the supreme governing body and the board of directors.
4. Each voting member has one vote.
5. No vote may be cast by proxy.

#### **26.1-15.1-05. Purposes and owners.**

1. A society shall operate for the benefit of members and their beneficiaries by:
  - a. Providing benefits as specified in section 26.1-15.1-16.
  - b. Operating for one or more social, intellectual, educational, charitable, benevolent, moral, fraternal, patriotic, or religious purposes for the benefit of its members, which may also be extended to others. Such purposes may be carried out directly by the society or indirectly through subsidiary corporations, limited liability companies, or affiliated organizations.
2. Every society has the power to adopt laws and rules for the government of the society, the admission of its members, and the management of its affairs. It has the power to change, alter, add to, or amend such laws and rules and such other powers as are necessary and incidental to carrying into effect the objects and purposes of the society.

#### **26.1-15.1-06. Qualifications for membership.**

1. A society shall specify in its laws or rules:
  - a. Eligibility standards for each class of membership, provided that if benefits are provided on the lives of children, the minimum age for adult membership must be set at not less than age fifteen and not greater than age twenty-one.
  - b. The process for admission to membership for each membership class.
  - c. The rights and privileges of each membership class, provided that only benefit members may vote on the management of the insurance affairs of the society.
2. A society may also admit social members who have no voice or vote in the management of the insurance affairs of the society.
3. Membership rights in the society are personal to the member and are not assignable.

#### **26.1-15.1-07. Location of office - Meetings - Communications to members - Grievance procedures.**

1. The principal office of any domestic society must be located in this state. The meetings of its supreme governing body may be held in any state, district, province, or territory in which the society has at least one subordinate lodge, or in any other location as determined by the supreme governing body, and all business transacted at the meetings is valid in all respects. The minutes of the proceedings of the supreme governing body and of the board of directors must be in the English language.
2.
  - a. A society may provide in its laws for an official publication in which any notice, report, or statement required by law to be given to members, including notice of election, may be published. Required reports, notices, and statements must be printed conspicuously in the publication. If the records of a society show that two or more members have the same mailing address, an official publication mailed to one member is deemed to be mailed to all members at the same address unless a member requests a separate copy.

- b. Not later than June first of each year, a synopsis of the annual statement of the society providing an explanation of the facts concerning the condition of the society must be printed and mailed to each benefit member of the society or, in lieu thereof, the synopsis may be published in the official publication of the society.
3. A society may provide in its laws or rules for grievance or complaint procedures for members.

**26.1-15.1-08. Officers and members not personally liable for benefit contracts.**

1. The officers and members of the supreme governing body or any subordinate body of a society are not personally liable for any benefits provided by the society.
2. Any society may indemnify and reimburse any person for expenses reasonably incurred by, and liabilities imposed upon, that person in connection with or arising out of any action or proceeding, whether civil, criminal, administrative, or investigative, or threat thereof, in which the person may be involved by reason of the fact that the person is or was a director, officer, employee, or agent of the society or of any firm, corporation, limited liability company, or organization which that person served in any capacity at the request of the society. A person may not be so indemnified or reimbursed in relation to any matter as to which the person is adjudged to be or has been guilty of breach of a duty as a director, officer, employee, or agent of the society unless the person acted in good faith for a purpose the person reasonably believed to be in the best interests of the society and, in a criminal action or proceeding, had no reasonable cause to believe that the conduct was unlawful. The determination whether the conduct of such person met the standard required in order to justify indemnification and reimbursement in relation to any matter may only be made by the supreme governing body or board of directors by a majority vote of a quorum consisting of persons who were not parties to the matter or by a court of competent jurisdiction. The termination of any action or proceeding by judgment, order, settlement, conviction, or upon a plea of no contest, does not in itself create a presumption that the person did not meet the standard of conduct required in order to justify indemnification and reimbursement. The foregoing right of indemnification and reimbursement is not exclusive of other rights to which the person may be entitled as a matter of law and inures to the benefit of that person's heirs, executors, and administrators.
3. A society may purchase and maintain insurance on behalf of any director, officer, employee, or agent of the society who is or was serving at the request of the society as a director, officer, employee, or agent of any other firm, corporation, limited liability company, or organization against any liability asserted against or incurred by that person in any such capacity or arising out of that person's status as such, regardless of whether the society has the power to indemnify the person against such liability under this section.

**26.1-15.1-09. Waiver.**

The laws of the society may provide that no subordinate body nor any of its subordinate officers or members has the power or authority to waive any of the provisions of the laws of the society. The provision is binding on the society and every member and beneficiary of a member.

**26.1-15.1-10. Organization.**

A domestic society organized after December 31, 1987, must be formed as follows:

1. Seven or more citizens of the United States, a majority of whom are citizens of this state, who desire to form a fraternal benefit society, may make, sign, and acknowledge before some officer competent to take acknowledgment of deeds, articles of incorporation, which must contain:
  - a. The proposed corporate name of the society, which must not so closely resemble the name of any society or insurance company as to be misleading or confusing.

- b. The purposes for which it is being formed and the mode in which its corporate powers are to be exercised, within the powers granted by this chapter.
  - c. The names and residences of the incorporators and the names, residences, and official titles of all the officers, trustees, directors, or other persons who are to exercise the general management of the affairs and funds of the society for the first year or until election of officers by the supreme governing body to be held not later than one year from the date of issuance of the permanent certificate of authority.
2. The articles of incorporation, duly certified copies of the bylaws and rules, copies of all proposed forms of certificates, applications therefor, circulars to be issued by the society, and a bond conditioned upon the return to applicants of the advanced payments if the organization is not completed within one year must be filed with the commissioner, who may require further information as the commissioner deems necessary. The bond with sureties approved by the commissioner must be in an amount of not less than three hundred thousand dollars nor more than one million five hundred thousand dollars, as required by the commissioner. All documents filed must be in the English language. If the purposes of the society conform to the requirements of this chapter and all provisions of the law have been complied with, the commissioner shall so certify, retain and file the articles of incorporation, and furnish the incorporators a preliminary certificate of authority authorizing the society to solicit members as hereinafter provided.
3. No preliminary certificate of authority granted under this section is valid after one year from its issuance, except as may be authorized by the commissioner upon cause shown for not more than one additional year, unless the five hundred applicants required under subsection 4 have been secured and the organization has been completed as herein provided. The articles of incorporation and all other proceedings under this chapter become void one year from the date of the preliminary certificate of authority, or at the expiration of the extended period, unless the society has completed its organization and received a certificate of authority to do business as hereinafter provided.
4. Upon receipt of a preliminary certificate of authority from the commissioner, the society may solicit members for the purpose of completing its organization, shall collect from each applicant the amount of not less than one regular monthly premium in accordance with its table of rates, and shall issue to each such applicant a receipt for the amount so collected. No society may incur any liability other than for the return of such advance premium, nor issue any certificate, nor pay, allow, offer, or promise to pay any benefit to any person until:
  - a. Actual bona fide applications for benefits have been secured from not fewer than five hundred applicants and any necessary evidence of insurability has been furnished to and approved by the society.
  - b. At least ten subordinate lodges have been established into which the five hundred applicants have been admitted.
  - c. There has been submitted to the commissioner, under oath of the president or secretary, or corresponding officer of the society, a list of the applicants, containing their names, addresses, date each was admitted, name and number of the subordinate lodge of which each applicant is a member, and amount of benefits to be granted and premiums thereof.
  - d. It has been shown to the commissioner, by sworn statement of the treasurer, or corresponding officer of such society, that at least five hundred applicants have each paid in cash at least one regular monthly premium, which premiums in the aggregate must amount to at least one hundred fifty thousand dollars. The advance premiums must be held in trust during the period of organization and if the society does not qualify for a certificate of authority, the premiums must be returned to the applicants.
5. The commissioner may make such examination and require such further information as the commissioner deems advisable. Upon presentation of satisfactory evidence that

the society has complied with all the provisions of law, the commissioner shall issue to the society a certificate of authority allowing the society to transact business under this chapter. The certificate of authority is prima facie evidence of the existence of the society at the date of the certificate. A certified copy of the certificate may be given in evidence with like effect as the original certificate of authority.

**26.1-15.1-11. Amendments to laws.**

1. A domestic society may amend its laws by action of its supreme governing body at any regular or special meeting or, if its laws so provide, by referendum. A referendum may be held in accordance with the provisions of its laws by the vote of the voting members of the society, by the vote of delegates or representatives of voting members, or by the vote of local lodges. A society may provide for voting by mail. No amendment submitted for adoption by referendum may be adopted unless, within six months from the date of submission thereof, a majority of the members voting shall have signified their consent to the amendment by one of the methods herein specified.
2. No amendment to the laws of any domestic society may take effect until approved by the commissioner who shall approve the amendment if the commissioner finds that it has been duly adopted and is not inconsistent with any requirement of the laws of this state or with the character, objects, and purposes of the society. Unless the commissioner disapproves an amendment within sixty days after filing, the amendment is considered approved. The approval or disapproval of the commissioner must be in writing and mailed to the secretary or corresponding officer of the society at its principal office. If the commissioner disapproves an amendment, the reasons for disapproval must be stated in the written notice of denial.
3. Within ninety days after approval by the commissioner of an amendment or a synopsis of it, the society shall furnish a copy of the amendment to all members of the society either by mail or by publication in the official publication of the society. The affidavit of any officer of the society or of anyone authorized by it to mail any amendments or synopses, stating facts that show the same have been duly addressed and mailed, is prima facie evidence that the amendments or synopses have been furnished to the addressees.
4. Every foreign society authorized to do business in this state shall file with the commissioner a duly certified copy of all amendments to its laws within ninety days after enactment.
5. Printed copies of the laws, certified by the secretary or corresponding officer of the society, are prima facie evidence of the legal adoption thereof.

**26.1-15.1-12. Institutions.**

1. A society may create, maintain, and operate, or may establish organizations to operate, not-for-profit institutions to further the purposes permitted by section 26.1-15.1-05. The institutions may furnish services free or at a reasonable charge. Any property owned, held, or leased by the society for these purposes must be reported in every annual statement.
2. No society may own or operate funeral homes or undertaking establishments.

**26.1-15.1-13. Reinsurance.**

1. A domestic society may by reinsurance agreement cede any individual risk or risks in whole or in part to an insurer, other than another fraternal benefit society, having the power to make reinsurance and authorized to do business in this state, or if not so authorized, one which is approved by the commissioner, but no society may reinsure substantially all of its insurance in force without first obtaining the written permission of the commissioner. A society may take credit for the reserves on such ceded risks to the extent reinsured, but no credit may be allowed as an admitted asset or as a deduction from liability to a ceding society for reinsurance made, ceded, renewed, or otherwise becoming effective after December 31, 1987, unless the reinsurance is

payable by the assuming insurer on the basis of the liability of the ceding society under the contract or contracts reinsured without diminution because of the insolvency of the ceding society.

2. Notwithstanding the limitation in subsection 1, a society may reinsure the risks of another society in a consolidation or merger approved by the commissioner under section 26.1-15.1-14.

**26.1-15.1-14. Consolidations and mergers.**

1. A domestic society may consolidate or merge with any other society by complying with this section. It shall file with the commissioner:
  - a. A certified copy of the contract containing in full the terms and conditions of the consolidation or merger.
  - b. A sworn statement by the president and secretary or corresponding officers of each society showing the financial condition of the society on a date fixed by the commissioner but not earlier than December thirty-first next preceding the date of the contract.
  - c. A certificate of such officers, duly verified by their respective oaths, that the consolidation or merger has been approved by a two-thirds vote of the supreme governing body of each society conducted at a regular or special meeting of each or, if the laws of the society permit, by mail.
  - d. Evidence that at least sixty days prior to the action of the supreme governing body of each society, the text of the contract has been furnished to all members of each society either by mail or by publication in full in the official publication of each society.
2. If the commissioner finds that the contract conforms to this section, that the financial statements are correct, and that the consolidation or merger is just and equitable to the members of each society, the commissioner shall approve the contract and issue a certificate to that effect. Upon approval, the contract is in effect unless any society that is a party to the contract is incorporated under the laws of any other state or territory. A consolidation or merger involving a society from another state or territory is not effective until it has been approved as provided by the laws of the other state or territory and a certificate of that approval has been filed with the commissioner.
3. Upon the consolidation or merger becoming effective, all the rights, franchises, and interests of the consolidated or merged societies in and to every species of property are vested in the resulting society without any other instrument, except that conveyances of real property may be evidenced by proper deeds, and the title to any real property vested under the laws of this state in any of the societies consolidated or merged does not revert nor is it in any way impaired by reason of the consolidation or merger, but vests absolutely in the society resulting from the consolidation or merger.
4. The affidavit of any officer of the society or of anyone authorized by it to mail any notice or document, stating that such notice or document has been duly addressed and mailed, is prima facie evidence that the notice or document has been furnished to the addressees.

**26.1-15.1-15. Conversion of fraternal benefit society into mutual life insurance company.**

Any domestic society may be converted and licensed as a mutual life insurance company by compliance with all the requirements of the insurance laws of this state for mutual life insurance companies. A plan of conversion must be prepared in writing by the board of directors setting forth in full the terms and conditions of conversion. The affirmative vote of two-thirds of all members of the supreme governing body at a regular or special meeting is necessary for the approval of the conversion plan. No conversion may take effect until approved by the commissioner who may approve the conversion if the commissioner finds that the proposed change conforms to the requirements of law and is not prejudicial to the certificate holders of the society.

#### **26.1-15.1-16. Benefits.**

1. A society may provide the following contractual benefits in any form:
  - a. Death benefits.
  - b. Endowment benefits.
  - c. Annuity benefits.
  - d. Temporary or permanent disability benefits.
  - e. Hospital, medical, or nursing benefits.
  - f. Monument or tombstone benefits to the memory of deceased members.
  - g. Other benefits authorized for life insurers which are not inconsistent with this chapter.
2. A society shall specify in its rules those persons who may be covered by the contractual benefits in subsection 1, consistent with providing benefits to members and their dependents. A society may provide benefits on the lives of children under the minimum age for adult membership upon application of an adult member.

#### **26.1-15.1-17. Beneficiaries.**

1. The owner of a benefit contract has the right to change the beneficiary or beneficiaries in accordance with the laws or rules of the society unless the owner waives this right by specifically requesting in writing that the beneficiary designation be irrevocable. A society may, through its laws or rules, limit the scope of beneficiary designations and shall provide that no revocable beneficiary has or obtains any vested interest in the proceeds of any certificate until the certificate has become due and payable in conformity with the provisions of the benefit contract.
2. A society may make provision for the payment of funeral benefits to the extent of incurred expense occasioned by the burial of the member, not to exceed the sum of one thousand dollars.
3. If, at the death of any person insured under a benefit contract, there is no lawful beneficiary to whom the proceeds are payable, the amount of the benefit, except to the extent that funeral benefits may be paid as provided in subsection 2, is payable to the personal representative of the deceased insured, except that the proceeds are payable to the owner of the certificate if the owner was not the insured.

#### **26.1-15.1-18. Benefits not attachable.**

All money or other benefit, charity, relief, or aid to be paid, provided, or rendered by any society is exempt from liability for debts of the person to or on account of whom the items are paid, provided, or rendered, and are not subject to seizure upon execution or other process.

#### **26.1-15.1-19. The benefit contract.**

1. Every society authorized to do business in this state shall issue to each owner of a benefit contract a certificate specifying the amount of benefits provided. The certificate, together with any riders or endorsements attached thereto, the laws of the society, the application for membership, the application for insurance and declaration of insurability, if any, signed by the applicant, and all amendments to each, constitute the benefit contract, as of the date of issuance, between the society and the owner, and the certificate must so state. A copy of the application for insurance and declaration of insurability, if any, must be endorsed upon or attached to the certificate. All statements on the application must be representations and not warranties. Any waiver of this provision is void.
2. Any changes, additions, or amendments to the laws of the society duly made or enacted subsequent to the issuance of the certificate are binding upon the owner and the beneficiaries and govern and control the benefit contract in all respects the same as though the changes, additions, or amendments had been made prior to and were in force at the time of the application for insurance, except that no change, addition, or amendment destroys or diminishes benefits that the society contracted to give the owner as of the date of issuance.

3. Any person upon whose life a benefit contract is issued prior to attaining the age of majority is bound by the terms of the application and certificate and by all the laws and rules of the society to the same extent as though the age of majority had been attained at the time of application.
4. A society shall provide in its laws that if its reserves as to all or any class of certificates become impaired its board of directors or corresponding body may require that there must be paid by the owner to the society the amount of the owner's equitable proportion of the deficiency as ascertained by its board. If the payment is not made, either the proportionate amount must stand as an indebtedness against the certificate and draw interest not to exceed the rate specified for certificate loans under the certificates or the owner may accept a proportionate reduction in benefits under the certificate, either alone or in combination with an indebtedness against the certificate. The society may specify the manner of the election and which alternative is to be presumed if the member makes no election.
5. Copies of any of the documents mentioned in this section, certified by the secretary or corresponding officer of the society, are prima facie evidence of their terms and conditions.
6. No certificate may be delivered or issued for delivery in this state unless a copy of the form has been filed with and approved by the commissioner in the manner provided for like policies issued by life insurers in this state. Every life, accident, health, or disability insurance certificate and every annuity certificate issued after December 31, 1988, must meet the standard contract provision requirements not inconsistent with this chapter for like policies issued by life insurers in this state, except that a society may provide for a grace period for payment of premiums of one full month in its certificates. The certificates must also contain a provision stating the amount of premiums which is payable under the certificate and a provision reciting or setting forth the substance of any sections of the laws or rules of the society in force at the time of issuance of the certificate which, if violated, will result in the termination or reduction of benefits payable under the certificate. If the laws of the society provide for expulsion or suspension of a member, the certificate must also contain a provision that any member so expelled or suspended, except for nonpayment of a premium or within the contestable period for material misrepresentation in the application for membership or insurance, has the privilege of maintaining the certificate in force by continuing payment of the required premium.
7. Benefit contracts issued on the lives of persons below the minimum age for adult membership may provide for transfer of control or ownership to the insured at an age specified in the certificate. A society may require approval of an application for membership in order to effect this transfer and may provide in all other respects for the regulation, government, and control of the certificates and all rights, obligations, and liabilities incident thereto. Ownership rights prior to transfer of control or ownership must be specified in the certificate.
8. A society may specify the terms and conditions on which benefit contracts may be assigned.

**26.1-15.1-20. Nonforfeiture benefits, cash surrender values, certificate loans, and other options.**

1. For certificates issued before January 1, 1989, the value of every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan, or other option granted must comply with the provisions of law applicable immediately before January 1, 1988.
2. For certificates issued after December 31, 1988, for which reserves are computed on the commissioners' 1958 standard ordinary mortality table or the commissioners' 1980 standard ordinary mortality table, or any more recent table made applicable to life insurers, every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan, or other option granted must not be less than the corresponding amount ascertained in accordance with the laws of this state applicable to life insurers issuing policies containing like benefits based upon those tables.



#### **26.1-15.1-21. Investments.**

A society may invest its funds only in investments authorized by the laws of this state for the investment of assets of life insurers and subject to the limitations thereon. Any foreign society permitted or seeking to do business in this state which invests its funds in accordance with the laws of the state, district, territory, country, or province in which it is incorporated, meets the requirements of this section for the investment of funds.

#### **26.1-15.1-22. Funds.**

1. All assets must be held, invested, and disbursed for the use and benefit of the society and no member or beneficiary has or acquires individual rights therein or becomes entitled to any apportionment on the surrender of any part thereof except as provided in the benefit contract.
2. A society may create, maintain, invest, disburse, and apply any special fund or funds necessary to carry out any purpose permitted by the laws of the society.
3. A society may, pursuant to resolution of its supreme governing body, establish and operate one or more separate accounts and issue contracts on a variable basis, subject to the provisions of law regulating life insurers establishing such accounts and issuing such contracts. To the extent the society determines it to be necessary in order to comply with any applicable federal or state laws or rules, the society may adopt special procedures for the conduct of the business and affairs of a separate account, may provide special voting and other rights for persons having beneficial interests in those accounts, including special rights and procedures relating to investment policy, investment advisory services, selection of certified public accountants, and selection of a committee to manage the business and affairs of the account, and may issue contracts on a variable basis to which subsections 2 and 4 of section 26.1-15.1-19 do not apply.

#### **26.1-15.1-23. Exemption from insurance laws.**

Societies are governed by this chapter and are exempt from all other provisions of the insurance laws of this state, except as expressly designated therein or as specifically made applicable by this chapter.

#### **26.1-15.1-24. Taxation.**

Every society organized or licensed under this chapter is hereby declared to be a charitable and benevolent institution, and all of its funds are exempt from all and every state, county, district, municipal, and school tax, other than taxes on real estate and office equipment.

#### **26.1-15.1-25. Valuation.**

1. Standards of valuation for certificates issued before January 1, 1989, are those provided by the laws applicable immediately before January 1, 1988.
2. The minimum standards of valuation for certificates issued after December 31, 1988, are based on the following tables:
  - a. For certificates of life insurance - the commissioners' 1958 standard ordinary mortality table, the commissioners' 1980 standard ordinary mortality table, or any more recent table made applicable to life insurers.
  - b. For annuity and pure endowment certificates, for total and permanent disability benefits, for accidental death benefits, and for noncancelable accident and health benefits - tables authorized for use by life insurers in this state.All of the above must be under valuation methods and standards, including interest assumptions, in accordance with chapter 26.1-35.
3. The commissioner may accept other standards for valuation if the commissioner finds that the reserves produced thereby will not be less in the aggregate than reserves computed in accordance with the minimum valuation standard prescribed in this section. The commissioner may vary the standards of mortality applicable to all benefit

contracts on substandard lives or other extra hazardous lives by any society authorized to do business in this state.

4. Any society, with the consent of the insurance department of the state of domicile of the society and under conditions, if any, which the commissioner may impose, may establish and maintain reserves on its certificates in excess of the reserves required thereunder, but the contractual rights of any benefit member may not be affected thereby.

#### **26.1-15.1-26. Reports.**

Reports must be filed in accordance with this section.

1. Every society transacting business in this state shall annually on or before the first day of March file with the commissioner a true statement of its financial condition, transactions, and affairs for the preceding calendar year and pay the fee prescribed by section 26.1-01-07. The statement must be in general form and context as approved by the national association of insurance commissioners for fraternal benefit societies and as supplemented by the commissioner.
2. As part of the annual statement, each society shall on or before the first day of March file with the commissioner a valuation of its certificates in force on the preceding December thirty-first. The commissioner may for cause shown extend the time for filing the valuation report for not more than two calendar months. The valuation must be done in accordance with the standards specified in section 26.1-15.1-25. The valuation and underlying data must be certified by a qualified actuary or, at the expense of the society, verified by the actuary of the insurance department of the state of domicile of the society.
3. A society neglecting to file the annual statement in the form and within the time provided by this section shall forfeit one hundred dollars for each day during which the neglect continues and, upon notice by the commissioner to that effect, its authority to do business in this state ceases while the default continues.

#### **26.1-15.1-27. Annual license.**

The authority of every society annually terminates on April thirtieth and may be renewed. A license continues in full force and effect until the new license is issued or specifically refused. For each license or renewal the society shall before April first pay the commissioner the fee established under section 26.1-01-07. A duly certified copy or duplicate of the license is prima facie evidence that the licensee is a fraternal benefit society.

#### **26.1-15.1-28. Examination of societies.**

1. The commissioner may examine any domestic, foreign, or alien society transacting or applying for admission to transact business in this state in the same manner as authorized for examination of domestic, foreign, or alien insurers. Requirements of notice and an opportunity to respond before findings are made public as provided in the laws regulating insurers are applicable to the examination of societies.
2. The expense of each examination and of each valuation, including compensation and actual expense of examiners, must be paid by the society examined or whose certificates are valued, upon statements furnished by the commissioner.

#### **26.1-15.1-29. Foreign or alien society - Admission.**

No foreign society may transact business in this state without a license issued by the commissioner. Any foreign society desiring admission to this state shall comply with the requirements and limitations of this chapter applicable to domestic societies. Any foreign society may be licensed to transact business in this state upon filing with the commissioner:

1. A duly certified copy of its articles of incorporation;
2. A copy of its bylaws, certified by its secretary or corresponding officer;
3. A power of attorney to the commissioner as required under section 26.1-15.1-35;

4. A statement of its business under oath of its president and secretary or corresponding officers in a form prescribed by the commissioner, duly verified by an examination made by the supervising insurance official of its home state or other state, territory, province, or country, satisfactory to the commissioner;
5. Certification from the proper official of its home state, territory, province, or country that the society is legally incorporated and licensed to transact business therein;
6. Copies of its certificate forms; and
7. Such other information as the commissioner may deem necessary.

The foreign society shall also show that its assets are invested in accordance with this chapter.

**26.1-15.1-30. Injunction - Liquidation - Receivership of domestic society.**

1. The commissioner shall notify the society of the deficiency or deficiencies stating in writing the reasons for the commissioner's dissatisfaction and requiring that the deficiency or deficiencies be corrected, if the commissioner upon investigation finds that a domestic society has committed any of the following acts:
  - a. Exceeded its powers.
  - b. Failed to comply with any provision of this chapter.
  - c. Not fulfilled any of its contracts in good faith.
  - d. Has a membership of less than four hundred after an existence of one year or more.
  - e. Conducted business fraudulently or in a manner hazardous to its members, creditors, the public, or the business.

After notice the society has a thirty-day period in which to comply with the commissioner's request for correction. If the society fails to comply, the commissioner shall notify the society of noncompliance and require the society to show cause on a date specified why it should not be enjoined from carrying on any business until the violations complained of have been corrected or why an action in quo warranto should not be commenced against the society.

2. If the society does not present good and sufficient reasons why it should not be so enjoined or why an action in quo warranto should not be commenced, the commissioner may present the facts to the attorney general who may commence an action to enjoin the society from transacting business or in quo warranto.
3. The attorney general shall thereupon notify the officers of the society of a hearing. If after a full hearing it appears that the society should be so enjoined or liquidated or a receiver appointed, the court shall enter the necessary order. No society so enjoined may do business until:
  - a. The commissioner finds that the violation complained of has been corrected;
  - b. The costs of the action have been paid by the society if the court finds that the society was in default as charged;
  - c. The court has dissolved its injunction; and
  - d. The commissioner has reinstated the certificate of authority.
4. If the court orders the society liquidated, it must be enjoined from carrying on any further business, whereupon the receiver of the society shall proceed at once to take possession of the books, papers, money, and other assets of the society and, under the direction of the court, proceed forthwith to close the affairs of the society and to distribute its funds to those entitled thereto.
5. No action under this section may be recognized in any court of this state unless brought by the attorney general upon request of the commissioner. Whenever a receiver is to be appointed for a domestic society, the court shall appoint the commissioner or the commissioner's designee as receiver.
6. The provisions of this section relating to hearing by the commissioner, action by the attorney general at the request of the commissioner, hearing by the court, injunction, and receivership are applicable to a society that voluntarily determines to discontinue business.

**26.1-15.1-31. Suspension, revocation, or refusal of license of foreign society.**

1. If the commissioner upon investigation finds that a foreign society transacting or applying to transact business in this state has committed any of the acts set forth in subdivision a, b, c, or e of subsection 1 of section 26.1-15.1-30, the commissioner shall notify the society of the deficiency or deficiencies stating in writing the reasons for the commissioner's dissatisfaction and requiring that the deficiency or deficiencies be corrected. After the notice the society has a thirty-day period in which to comply with the commissioner's request for correction. If the society fails to comply, the commissioner shall notify the society of noncompliance and require the society to show cause on a date specified why its license should not be suspended, revoked, or refused. If the society does not present good and sufficient reason why its authority to do business in this state should not be suspended, revoked, or refused, the commissioner may suspend or refuse the license of the society to do business in this state until satisfactory evidence is furnished to the commissioner that the suspension or refusal should be withdrawn or the commissioner may revoke the authority of the society to do business in this state.
2. This section does not prevent any society from continuing in good faith all contracts made in this state during the time the society was legally authorized to transact business in this state.

**26.1-15.1-32. Injunction.**

No application or petition for injunction against any domestic, foreign, or alien society, or lodge thereof, may be recognized in any court of this state unless made by the attorney general upon request of the commissioner.

**26.1-15.1-33. Licensing of agents.**

Insurance producers of societies must be licensed under chapter 26.1-26.

**26.1-15.1-34. Unfair methods of competition and unfair and deceptive acts and practices.**

Every society authorized to do business in this state is subject to the provisions of chapter 26.1-04 relating to unfair trade practices, except that nothing in those provisions may be construed as applying to or affecting the right of any society to determine eligibility requirements for membership or be construed as applying to or affecting the offering of benefits exclusively to members or persons eligible for membership in the society by a subsidiary corporation, limited liability company, or affiliated organization of the society.

**26.1-15.1-35. Service of process.**

1. Every society authorized to do business in this state shall appoint in writing the commissioner and each successor in office to be its true and lawful attorney upon whom all lawful process in any action or proceeding against it may be served and agrees that any lawful process against it which is served on the commissioner is of the same legal force and validity as if served upon the society. The authority continues in force so long as any liability of the society remains outstanding in this state. Copies of the appointment, certified by the commissioner, are sufficient evidence thereof and must be admitted in evidence with the same force and effect as the original.
2. Service may be made only upon the commissioner or upon any person in charge of the commissioner's office. It must be made in duplicate and constitutes sufficient service upon the society. When legal process against a society is served upon the commissioner, the commissioner shall forthwith forward one of the duplicate copies by registered mail, postage prepaid, directed to the secretary or corresponding officer. No service may require a society to file its answer, pleading, or defense in less than twenty days from the date of mailing the copy of the service to a society. Legal process may not be served upon a society except in the manner herein provided. At the time of

serving any process upon the commissioner, the plaintiff or complainant in the action shall pay to the commissioner the fee specified in section 26.1-01-07.

**26.1-15.1-36. Penalties.**

1. Any person who willfully makes a false or fraudulent statement in or relating to an application for membership or for the purpose of obtaining money from or a benefit in any society is guilty of a class A misdemeanor.
2. Any person who willfully makes a false or fraudulent statement in any verified report or declaration under oath required or authorized by this chapter or of any material fact or thing contained in a sworn statement concerning the death or disability of an insured for the purpose of procuring payment of a benefit named in the certificate is guilty of a class C felony.
3. Any person who solicits membership for or in any manner assists in procuring membership in any society not licensed to do business in this state is guilty of an infraction.

**26.1-15.1-37. Exemption of certain societies.**

1. Except as otherwise provided, this chapter does not affect or apply to:
  - a. Grand or subordinate lodges of societies, orders, or associations now doing business in this state which provide benefits exclusively through local or subordinate lodges.
  - b. Orders, societies, or associations that admit to membership only persons engaged in one or more crafts or hazardous occupations, in the same or similar lines of business, insuring only their own members and their families, and auxiliaries to such orders, societies, or associations.
  - c. Domestic societies that limit their membership to employees of a particular city, designated firm, business house, or corporation which provide for a death benefit of not more than four hundred dollars or disability benefits of not more than three hundred fifty dollars to any person in any one year, or both.
  - d. Domestic societies or associations of a purely religious, charitable, or benevolent description which provide for a death benefit of not more than four hundred dollars or for disability benefits of not more than three hundred fifty dollars to any one person in any one year, or both.
2. Any society or association described in subdivision c or d of subsection 1 which provides for death or disability benefits for which benefit certificates are issued, and any such society or association included in subdivision d of subsection 1 which has more than one thousand members, is not exempt from this chapter but shall comply with all requirements thereof.
3. No society that, by this section, is exempt from the requirements of this chapter, except any society described in subdivision d of subsection 1, may give, allow, or promise to give or allow to any person any compensation for procuring new members.
4. Every society that provides for benefits in case of death or disability resulting solely from accident and which does not obligate itself to pay natural death or sick benefits has all of the privileges and is subject to all the applicable provisions of this chapter, except that the provisions relating to medical examination, valuations of benefit certificates, and incontestability, do not apply to such society.
5. The commissioner may require from any society or association, by examination or otherwise, information to enable the commissioner to determine whether such society or association is exempt from this chapter.
6. Societies exempted under this section are also exempt from all other provisions of the insurance laws of this state.